IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 18870 of 1997

Between:

K.Ibrahim, S/o.K.Hussain Peera,
R/o.16 Ward, Door No.130-1,
C.B.Street, Yemmigannur, Kurnool District.

..... PETITIONER

AND

1 The Industrial Tribunal-cum-Labour Court,
Anantapur.
2 The Secretary, Weaver's Co.op.Production & Sales Society Limited,
Yemmigannur, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order, Direction or a Writ more particularly one in the nature of Writ of Certiorari and after calling for the records from the 1st Respondent Labour Court in I.D.No.17/94 and Quash the Award dated: 26th March, 1997.

Counsel for the Petitioner:MS.P.DEVIKA RANI

Counsel for the Respondents: GP FOR LABOUR

The Court made the following :

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ORDER:

Heard both sides.

The petitioner, who is a workman, filed this Writ Petition, inter alia, seeking Writ of Certiorari challenging the award of the 1st respondent herein in I.D.No.17 of 1994 dated 26-03-1997 dismissing the dispute.

The main grievance of the petitioner is that when the matter was posted in the Tribunal, the petitioner could not possibly present and he was awaiting intimation from his counsel, who informed him that whenever the case is come up for trial, he will intimate the date. Since the Counsel did not inform the date, he could not attend the case. Therefore, the absence of the petitioner is purely accidental one. Further, it is also contended that in the absence of the petitioner and treating him as ex parte, the respondent No.1 herein ought not to have gone into the merits and answered the reference and could not possibly have given a finding on merits.

Having considered the submissions made and on perusal of the material, it is seen that the impugned award was passed in the absence of the petitioner, rejecting the reference with a finding on merits, which is wholly unsustainable. In the absence of the parties, the respondent No.1 could not have gone into the merits.

Accordingly, the Writ Petition is allowed. The matter is remitted to the respondent No.1 herein for fresh disposal on merits in accordance with law after giving opportunity to both sides. No costs.

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B.PRAKASH RAO, J.

Dated 01-12-2004.

SKMR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Wednesday, the First Day of December Two Thousand and Four.

..... REGISTRAR

To

1 The Industrial Tribunal-cum-Labour Court,
Anantapur (with records).
2 The Secretary, Weaver's Co.op.Production & Sales Society Limited,
Yemmigannur, Kurnool District.

3. 2CCs to G.P. for Labour, High Court Buildings, Hyderabad,(OUT).

4. 2CD copies